



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,194	05/14/2001	Oomman Painumootil Thomas	KCC-15,893	8181

35844 7590 05/29/2003

PAULEY PETERSEN KINNE & ERICKSON
2800 WEST HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES, IL 60195

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
----------	--------------

1772

DATE MAILED: 05/29/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,194

Applicant(s)

THOMAS, OOMMAN
PAINUMOOTIL

Examiner

Alicia Chevalier

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g. 6) ☐ Other: _____

RESPONSE TO AMENDMENT

WITHDRAWN REJECTIONS

1. The 35 U.S.C. §112 rejections of record in paper #7, page 3, paragraph #4 have been withdrawn due to Applicant's amendment in paper #9.
2. The 35 U.S.C. §102 rejections of record in paper #7, pages 3-5, paragraphs #6 and #7 have been withdrawn due to Applicant's amendment in paper #9.
3. The 35 U.S.C. §103 rejection of record in paper #7, pages 3-5, paragraphs #6 and #7 have been withdrawn due to Applicant's amendment in paper #9.

NEW REJECTIONS

4. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

Claim Rejections - 35 USC § 102

5. Claims 1-3, 7-14, 17, 21, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosch et al. (5,790,983).

Rosch discloses an elasticized garment intended for the use of bathers or swimmers and related to the kind which are disposable and primarily for children, disposable waste containment articles such as adult care, infant care, and child care, diapers, disposable training pants, etc. (col. 1, lines 5-19). The garment (elastomeric laminate) comprises periodically spaced body elastics (strands of elastomeric material) sandwiched between an outer cover (elastomeric film) and a

Art Unit: 1772

body side liner (elastomeric film) (col. 3, lines 60-65, col. 5, lines 45-53, and figure 2). The outer cover and body side liner are elastic/elastomeric polymer films made of thermoplastics such as polyamide (col. 4, lines 24-38). The outer cover or body side liner may also be a spunbond sheet (col. 4, lines 41-61).

Claim Rejections - 35 USC § 103

6. Claims 4-6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosch et al. (5,790,983) in view of Sauer (5,527,300).

Rosch discloses all the limitations of the instant claimed invention except for either the elastomeric strand material or elastomeric film material made comprising a thermoset polymer, the strand material and the film material are the same, and the elastomeric strands have different compositions.

Sauer discloses an absorbent article for incontinence garment or disposable diapers (col. 1, lines 17-26). The absorbent article comprises a plurality of elastic strands which can be composed of synthetic thermoplastic elastomers, or thermoset polymers (col. 18, lines 8-21).

It would have been obvious to one of ordinary skill in the art to use thermoset material as the strands in Rosch because Sauer discloses that they are equivalent materials for use in the art. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a thermoset material for the elastomeric film material, the same material for both the strands and the film, or have different compositions for the strands, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

Art Unit: 1772

7. Claims 15, 16, 18, 19 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosch et al. (5,790,983) in view of Melbye et al. (5,681,302).

Rosch discloses all the limitations of the instant invention except for the different amounts of elastic tension and different diameters and spacing of the strands.

Melbye discloses an elastic sheet composite comprising a first flexible sheet, a plurality of elongate elastic strands, and a second flexible sheet (figure 6). The elastic sheet composite provides advantages when used for many purposes particularly including being incorporated in disposable garments such as diapers, training pants, or adult incompetence briefs (col. 1, lines 43-47). The elongate elastic strands comprise a thermoplastic material (col. 1, lines 63-67). From figures 2 and 6 the strands can be seen to have even spacing and the same diameter. Melbye also discloses and shows in figure 8 using different variations in the spacing and diameters of the strands that can cause the elastic sheet composite when stretched longitudinally of its strands to be under greater or lesser tensions across its width normal to the strands depending on the spacing and or diameters of the strands.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the strand orientation, spacing, grouping and diameter of Melbye in the garment of Rosch because of the increased ability for the strands to accommodate tension in different directions on the garment.

ANSWERS TO APPLICANT'S ARGUMENTS

8. Applicant's arguments filed in paper #9 regarding eh 35 U.S.C. §112, §102 and §103 rejections of record have been considered but are moot since the rejections have been withdrawn.

Art Unit: 1772

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


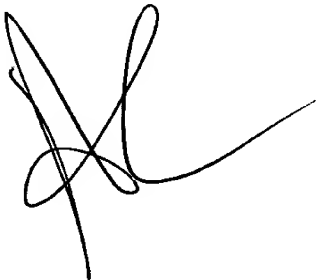
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (703) 305-1139. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:00 p.m. The Examiner can also be reached on alternate Fridays

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Harold Pyon can be reached by dialing (703) 308-4251. The fax phone number for the organization official non-final papers is (703) 872-9310. The fax number for after final papers is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose phone number is (703) 308-0661.

ac

5/25/03


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

5/27/03